APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/402,563	10/05/1999	LEO K. VAN ROMUNDE	SCQ-001US	6102

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EXAMINER
WU, RUTAO

ART UNIT	PAPER NUMBER
3628	

DATE MAILED: 12/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

	Application No.	Applicant(s)
Advisory Action ***Before the Filing of an Appeal Brief***	09/402,563	VAN ROMUNDE ET AL.
	Examiner	**Art Unit**	
	Rob Wu	3628	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>21 November 2006</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which . places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

   a) ☐ The period for reply expires _____months from the mailing date of the final rejection.

   b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

     Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

   (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);

   (b) ☐ They raise the issue of new matter (see NOTE below);

   (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

   (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

     NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

   The status of the claim(s) is (or will be) as follows:

   Claim(s) allowed: _____.

   Claim(s) objected to: _____.

   Claim(s) rejected: *1-3, 5-10, 12-14, 16 and 17*.

   Claim(s) withdrawn from consideration: _____.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>See Continuation Sheet.</u>

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). ___∧___

13. ☐ Other: _____.

JOHN W. HAYES
SUPERVISORY PATENT EXAMINER

U.S. Patent and Trademark Office

PTOL-303 (Rev. 08-06)   Advisory Action Before the Filing of an Appeal Brief   Part of Paper No. 20061209

Continuation of 11. does NOT place the application in condition for allowance because:

The arguments provided by the applicant are not persuasive.

With regards to the argument that McIlroy does not disclose generating forms in function of said hierarchised sequences of alternative actions, and in function of the past history of all alternative actions. The Examiner respectfully disagrees. McIlory disclose that his system allows continuous updating and modification of the experience base, using the information input into the process for each case. For example, the information on actual treatment provided can be used to reassess the decision path for system-selected treatments. (col 2: lines 25-30) McIlory also disclose that the user interface contains information identifying a preceding question and its responses. (col 6: lines 48-49) Therefore it is clear that McIlory allows for reconstruction of the whole decision making sequence, and recording of the sequence is made before, during and after the selection process.

With regards to the argument that McIlory does not involve any recommended actions or sequences of actions. The applicant state that McIlory simply deal with questions and answers. The Examiner respectfully disagrees. McIlory's system guides patient health diagnosis with questions that the user has to provide. However, in order to arrive at the answer the user must perform an action, a diagnosis. As stated by McIlory, the guidelines are diagnosis based. (col 10: lines 66-67) Therefore, McIlory's guidelines involve actions.

With regards to the argument that in McIlory, the sequence of selections or answers made by the user is created at the time of use and are not in any recorded catalogue prior to selection by the user. The Examiner disagrees. McIlory specifically disclose that the most appropriate medical data are collected and are used to guide the user through the comlex medical evaluation process. This is done by presenting questions in a logically-structured order, leading to guideline treatment options. (col 3: lines 1-4) McIlory also specifically disclose that at the foundation of the system is a set of diagnosis based guidelines that are derived from medical professional and health care management expertise. (col 5: lines 7-9) McIlory's system cannot function if the guidelines are not recorded prior to use by the user.

With regards to the argument that McIlory does not teach a recorded catalogue of recommended actions comprised of hierachised sequences of alternative actions. The Examiner respectfully disagrees. McIlory specifically disclose that the system is a hierachised sequences of alternative actions by stating that the guideline that a user has to follow can be viewed as a decision tree with multiple data collection nodes, most of which have conditional branching to connected notes based on user-supplied data. The endpoints of navigation through the decision tree are usually embodied in a set of treatment options. (col 5: lines 21-26) It is well known in the arts that a decision tree is a hierarchal model, since it has a defined structure and one would have to go through levels to arrive at the nodes. Accordingly McIlory disclose that the guidelines for guiding users to arrive at the correct treatment is stored in a guideline database 330. (col 4: line 59)

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